

EXHIBIT 1

Brett Foster (#6089)
Grant Foster (#7202)
Tamara Kapaloski (#13471)
DORSEY & WHITNEY LLP
111 S. Main Street, Suite 2100
Salt Lake City, UT 84111
Telephone: (801) 933-7360
Facsimile: (801) 933-7373
foster.brett@dorsey.com
foster.grant@dorsey.com
kapaloski.tammy@dorsey.com

Attorneys for Plaintiff Blendtec Inc.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

BLENDTEC INC., a Utah corporation,

Plaintiff,

vs.

BLENDJET INC., a Delaware corporation,

Defendant.

**BLENDTEC’S PROPOSED REPLY
TO BLENDJET’S RESPONSE TO
MOTION TO COMPEL
COMPLIANCE WITH SUBPOENAS
TO PATRICK MCGILL AND
SHEPPARD MULLIN**

Civil No. 2:21-cv-00668-TC-DBP

Judge Tena Campbell
Magistrate Judge Dustin B. Pead

Patrick McGill (“McGill”) and Sheppard Mullin (McGill’s former law firm) lawyers are admitted *pro hac vice* in this case and have engaged with Blendtec’s counsel in this District in connection with all aspects of this case, including related to the subpoenas to McGill and Sheppard Mullin.

After the deadline to serve written discovery passed, Blendtec discovered for the first time¹ documents and admissions by Blendjet's CEO disclosing that McGill's role at Blendjet goes well beyond that of counsel of record. Blendtec immediately issued subpoenas on March 1 to McGill and Sheppard Mullin. ECF 120-20. Consistently since that time, Blendtec has attempted to obtain discovery from McGill and Sheppard Mullin. *Id.* See also ECF 120-21. McGill and Sheppard Mullin have refused, stonewalled, and blocked all of Blendtec's efforts.

Although McGill and Sheppard Mullin met and conferred for months with Blendtec with respect to the subpoenas in this District (ECF 120-20, 120-21), McGill accepted service of his subpoena in this District (ECF 120-24), the subpoenas relate to issues before this Court, including Blendtec's motion to enforce the protective order and to disqualify (ECF 110), and Blendjet has served objections to the subpoenas (ECF 120-27, 120-28), Blendjet requests the Court deny the motion to compel because it "is not properly brought in this District." ECF 121 at 2.

Blendjet's objection is just another attempt to block discovery and delay. McGill and Sheppard Mullin have clear and indisputable connections with this judicial district and it is disingenuous for them to claim this court does not have jurisdiction over the motion. If the Court sustains the jurisdictional objection, Blendtec will file in the Southern District of California and will then seek to have the motion transferred to this Court. Thus, it is nearly certain that this Court will hear the motion to compel and Blendjet's attempt at delay and obstruction should be rejected.

Next, the motion to compel is not premature. It is demonstrably false that the parties only had one meet and confer on this issue on the day before Blendtec filed its motion as Blendjet

¹ As such, the subpoenas are not untimely.

claims. The parties conferred several times since March 1. ECF 120-20, 120-21. McGill, Sheppard Mullin, and Blendjet each objected to the subpoenas and refused to produce even one document. ECF 120-25 through 120-28. During telephonic conferral, Blendjet unequivocally stated that McGill and Sheppard Mullin stood on their objections and would not produce any documents. ECF 119-1. Blendjet now states in its Response that it offered to “determine whether additional documents could be produced by Blendjet to shed further light on the fact that Mr. McGill has never been employed by Blendjet.” Response at 2. Blendjet’s vague offer to cherry pick documents that it would selectively be willing to produce on a limited topic is not a response to the subpoena. Blendjet made its position clear: it would not produce the documents requested in the subpoena. Blendtec complied with its meet and confer requirements.

DATED this 18th day of May, 2023.

DORSEY & WHITNEY LLP

/s/ Tamara L. Kapaloski
Brett Foster (#6089)
Grant Foster (#7202)
Tamara L. Kapaloski (#13471)

Attorneys for Plaintiff Blendtec Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of May, 2023, a true and correct copy of the foregoing document was served on counsel of record via the Courts CM/ECF System which sent notice to counsel of record:

Martin R. Bader: mbader@sheppardmullin.com

Jesse A. Salen: jsalen@sheppardmullin.com

Patrick M. McGill: patrick@mcgillco.com

Nathan D. Thomas: nthomas@parsonsbehle.com

Elizabeth M. Butler: lbutler@parsonsbehle.com

/s/ Tamara L. Kapaloski